

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

D&M SPECIALTIES, INC.,

Plaintiff,

V.

**APACHE CREEK PROPERTIES, L.C.,
d/b/a Dimension Mill Works,**

Defendant.

CIVIL ACTION NO. SA-12-CA-588-FB

**ORDER SETTING CASE FOR JURY SELECTION AND TRIAL
AND FURTHER ORDERS OF THE COURT**

Before the Court is the status of the above styled and numbered cause. The parties have advised the Court they are unable to resolve their differences and are ready to proceed to a four-day jury trial in the latter part of 2015.

IT IS THEREFORE ORDERED that this case is SET for a four-day jury selection and trial setting beginning on **Monday, September 21, 2015, at 8:30 a.m.** in Courtroom 2 of the John H. Wood, Jr. United States Courthouse, 655 East César E. Chavez Boulevard, San Antonio, Texas 78206. This setting is subject to the Court's criminal docket which takes precedence over this civil case. The parties and the Court will not know for certain whether a defendant in a criminal case will choose to exercise his or her constitutional right to a jury trial on September 21st until the conclusion of docket call on Thursday, September 17, 2015. The parties can avoid being subject to this Court's criminal docket by consenting to proceed to trial before a Magistrate Judge on a date certain sometime in the future. The parties are also notified that this case may be transferred for trial to an Article III Visiting Judge given the additional Chief Judgeship responsibilities assigned to this Court.

IT IS FURTHER ORDERED that counsel are to confer and exchange proposed jury instructions on substantive issues and an agreed verdict form. If agreement cannot be reached after a good faith effort on behalf of both parties, each party should submit its proposed instructions and a proposed verdict form, along with objections to opposing counsels' submissions. The objections **must** contain

argument and citations to legal authorities. The parties are ADVISED to consult the latest version of the Fifth Circuit Pattern Jury Instructions (Civil) and Texas Pattern Jury Instructions (Civil) in support of their submissions. Should the parties desire to submit case authorities in support of their proposed jury instructions, the parties are advised that the Court is reluctant to follow a case authority unless it specifically references and discusses a jury instruction issue. The failure by either party to engage in a good faith effort to submit agreed jury instructions and a verdict form will result in the imposition of sanctions against the non-complying party. The submission(s) must be filed no later than 5 p.m. on **Thursday, September 3, 2015.**

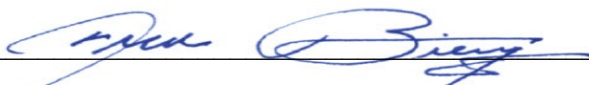
IT IS FURTHER ORDERED that pretrial information in conformance with Local Rule CV-16(e) shall be filed no later than 5 p.m. on **Thursday, September 10, 2015.**

IT IS FURTHER ORDERED that Motions in Limine shall be filed no later than 5 p.m. on **Monday, September 14, 2015.**

IT IS FINALLY ORDERED that this matter is SET for a final pretrial conference on **Thursday, September 17, 2015, at 10:30 a.m.** in Courtroom 2 of the John H. Wood, Jr. United States Courthouse, 655 East César E. Chavez Boulevard, San Antonio, Texas 78206. This setting is also subject to the Court's criminal docket and Chief Judgeship responsibilities. Counsel participating in trial and party representatives with settlement authority must appear. Exhibits shall be marked and any objections thereto will likely be taken up at this time.

It is so ORDERED.

SIGNED this 9th day of January, 2015.



FRED BIERY
CHIEF UNITED STATES DISTRICT JUDGE